

REMARKS

Claims 21-40 are now pending in this application. Claims 21, 26, 31 and 36 are independent claims. Claim 36 has been amended. Claims 1-20 have been cancelled.

Claim Rejections – 35 USC § 112, 2nd Paragraph

Claim 36 was rejected under 35 U.S.C. § 112, 2nd Paragraph. (Office Action, Page 2) Amendments have been made to Claim 36, thereby rendering moot the rejections under this section. Therefore, Claims 37-40 (which depend upon Claim 36) are believed allowable.

Claim Rejections – 35 USC § 103(a)

Claims 21-31, 33-36 and 38-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Douma et al., United States Patent Number: 5,990,884 (hereinafter: Douma) and Humpleman et al., United States Patent Number: 6,288,716 (hereinafter: Humpleman) in view of Wugofski, United States Patent Number: 6,317,143 (hereinafter: Wugofski). Claims 32 and 37 were rejected under Douma, Humpleman, and Wugofski in view of Naughton et al., United States Patent Number: 6,020,881 (hereinafter: Naughton). Applicant respectfully traverses these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). “If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious.” (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988).

Independent Claims 21, 26, 31 and 36 of the present invention each generally recite objects including common denominator functions for controlling a device and a

user interface generator which combines the objects to form a complete user interface for all functions of the device. In the pending Office Action, the Patent Office states that Douma and Humpleman teach each element of independent Claims 21, 26, 31 and 36 of the present application, but *do not* teach objects including common denominator functions for controlling a device and a user interface generator which combines the objects to form a complete user interface for all functions of the device. (Office Action, Page 4). However, the Patent Office cites Wugofski as teaching the above-referenced elements of Claims 21, 26, 31 and 36 of the present application. (Office Action, Page 5). Applicant respectfully traverses these rejections citing the following:

“Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” (35 U.S.C. 103 (c)).

Applicant respectfully points out that the Wugofski reference cannot be used to reject the claimed invention under 35 U.S.C. § 103(a) because the subject matter of Wugofski and the above-referenced claimed subject matter of the present invention were, at the time the present invention was made, subject to an obligation of assignment to the same assignee, Gateway, Inc., N. Sioux City, SD (US).

Based on the rationale above, Applicants contend a *prima facie* case of obviousness has not been established for independent Claims 21, 26, 31 and 36. Thus, independent Claims 21, 26, 31 and 36 are believed allowable. Further, Claims 22-25, (which depend from Claim 21), Claims 27-30 (which depend from Claim 26), Claims 32-35 (which depend from Claim 31), and Claims 37-40 (which depend from Claim 36) are therefore allowable.

CONCLUSION

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.


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Respectfully submitted on behalf of

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